



Committee of the Whole Minutes

January 16, 2023, 7:00 p.m.
Council Chambers
Whitby Town Hall

Present: Mayor Roy
Councillor Bozinovski
Councillor Cardwell
Councillor Leahy
Councillor Lee
Councillor Lundquist
Councillor Mulcahy
Councillor Shahid
Councillor Yamada

Also Present: M. Gaskell, Chief Administrative Officer
J. Romano, Commissioner of Community Services
F. Santaguida, Commissioner of Legal and Enforcement
Services/Town Solicitor
F. Wong, Commissioner of Financial Services/Treasurer
R. Saunders, Commissioner of Planning and Development
M. Dodge, Executive Advisor to the Mayor
C. Harris, Town Clerk
K. Narraway, Manager of Legislative Services/Deputy Clerk
L. MacDougall, Council and Committee Coordinator (Recording
Secretary)

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1. Call To Order: The Mayor
 2. Call of the Roll: The Clerk
 3. Declarations of Pecuniary Interest

During the closed portion of the meeting, Councillor Lundquist declared a conflict of interest regarding Item 6.1, Appointment to the Durham Transit Advisory Committee due to the mandate of the committee to deal with operational issues

which may impact collective bargaining, noting that she was a Member of the Senior Leadership Team with Unifor which was the union that represents the operators. Councillor Lundquist left the meeting room and did not take part in the discussion or voting on the matter.

4. Consent Agenda
5. Planning and Development

Councillor Lee assumed the Chair.

5.1 Presentations

5.2 Delegations

5.2.1 Mark Wafer and Ross Ste-Croix representing the Abilities Centre
(In-Person Attendance)

Re: Request to Rename Gordon Street North of Victoria Street to
Jim Flaherty Street

Refer to Item 5.3.1, Correspondence # 2022-679

Mark Wafer and Ross Ste-Croix, representing the Abilities Centre, requested that Gordon Street north of Victoria Street and adjacent to the Abilities Centre, be renamed to Jim Flaherty Street. Mr. Wafer stated that Jim Flaherty and his wife Christine Elliot were instrumental in creating the Abilities Centre. He stated that renaming the street would ensure and preserve Mr. Flaherty's legacy. He noted that Jim Flaherty was a lifelong resident of Whitby and that he was known as a champion of Canada's largest minority group being those who have a disability. Mr. Wafer advised that it was his intention to announce the renaming of Gordon Street at the Abilities Centre's 10th Anniversary Gala on March 4, 2023 should the request be approved.

It was the consensus of the Committee to hear Item 5.3.1, Correspondence # 2022-679 received by C. Harris, Town Clerk from R. Ste-Croix , General Manager & Chief Operating Officer, Abilities Centre, dated December 14, regarding a Request to Rename Gordon Street north of Victoria Street to Jim Flaherty Street, at this time.,

5.2.2 Matthew Cory and Frank Marchio representing Lakeview Homes
(In-Person Attendance)

Re: Draft Plan of Subdivision and Zoning By-law Amendment Applications, 2068681 Ontario Inc. (Lakeview Homes Inc.), Northeast Corner of Ashburn Road and Columbus Road West, File Numbers: DEV-27-20 (SW-2020-06, Z-14-20)

Refer to Item 5.4.1, PDP 01-23

Matthew Cory and Frank Marchio representing Lakeview Homes, stated that they had read and were in support of the Staff recommendation. Mr. Cory stated that the Draft Plan of Subdivision was originally submitted in 2020, and that they have worked hard on the Draft Plan of Subdivision and have had multiple submissions. He advised that they have worked with neighbouring landowners, noting that there were some remaining matters of coordination to take place with the Lysyk family. Mr. Cory stated that the location of lots and the layout of the streets were aligned with their plan. He stated that one of the bigger issues was the final grading which they would continue to work on, but that the resolution of grading would generally be undertaken during the detail design phase following the Draft Plan of Subdivision approval. He advised that he was eager to get to the detail design phase to continue to work together on those details. Mr. Cory stated that he believed it was appropriate, timely, and necessary for the Draft Plan of Subdivision approval at this time to continue to move forward.

Mr. Marchio stated that it has been a long 2 years and that he was eager to move forward to the next step in the process. He advised that it has been over 10 years since Lakeview Homes has developed a community and constructed homes in Whitby. Mr. Marchio stated that there were 92 Conditions of Draft Plan of Subdivision approval that were required to be met, but that they would get to work with Staff and neighbours in the area to clear those conditions. Mr. Marchio advised that they were available to answer questions.

A brief question and answer period ensued between Members of Committee, Mr. Cory, and Mr. Marchio regarding details about the alterations to the heritage building on the site, and the timeline for the first group of purchasers of residential dwelling units to move into their homes.

5.2.3 Eugene Gmitrowicz (In-Person Attendance)

Re: PDP 01-23, Planning and Development (Planning Services)
Department Report
Draft Plan of Subdivision and Zoning By-law Amendment
Applications, 2068681 Ontario Inc. (Lakeview Homes Inc.),
Northeast Corner of Ashburn Road and Columbus Road West, File
Numbers: DEV-27-20 (SW-2020-06, Z-14-20)

Refer to Item 5.4.1, PDP 01-23

Eugene Gmitrowicz, Resident, stated that he has been a resident, homeowner, and taxpayer in Whitby for over 60 years, noting that he has resided on Ashburn Road for the past 33 years. Mr. Gmitrowicz advised that he sold 5 acres of his property to Lakeview Homes a number of years ago, and that he retained 5 acres to live out the remainder of his life. He stated that he designed and constructed his home and was enjoying his 5 acres of land. Mr. Gmitrowicz stated that he was approached by Lakeview Homes and was told that if he did not sell his property there would be a lot of noise, that the developer would build around his property, and that his lot would be purposeless. Mr. Gmitrowicz advised that the plan indicates that a road would be constructed through the apple orchard on his property. He indicated that he would like the road to be constructed around his property, noting that the road could not be constructed on his property without his permission. He indicated that the road could be built around his property by using a portion of the park land. Mr. Gmitrowicz stated that he has planted a lot of trees, noting that they would be the only trees in the area due to the proposed development. Mr. Gmitrowicz stated that 40 percent of the land purchased by Lakeview Homes 4 years ago was not environmentally suitable for building and that no action has taken place on the land. He stated that the land could be used to create a park, noting that existing trees could be transplanted into a future park. Mr. Gmitrowicz raised concerns about the partially torn down building and the burdock that was growing on approximately 2 acres of land, noting that the area was an eyesore. He advised that his dogs were finding dead birds caused by the burdock. Mr. Gmitrowicz submitted photographs of the burdock and the proposed road through his property.

5.2.4 Max Lysyk, 1628755 Ontario Limited, and Jeff Ormonde, Urbantech Consulting (In-Person Attendance)

Re: PDP 01-23, Planning and Development (Planning Services)
Department Report

Draft Plan of Subdivision and Zoning By-law Amendment
Applications, 2068681 Ontario Inc. (Lakeview Homes Inc.),
Northeast Corner of Ashburn Road and Columbus Road West, File
Numbers: DEV-27-20 (SW-2020-06, Z-14-20)

Refer to Item 5.4.1, PDP 01-23

Max Lysyk, 1628755 Ontario Limited, and Jeff Ormonde, Urbantech, stated that they were representing the owners of 320 and 360 Columbus Road West located east of the subject property. Mr. Lysyk stated that his family has owned the property since the 1960's. Mr. Lysyk noted that applications for a Draft Plan of Subdivision and a Zoning By-law Amendment were submitted to the Town for his properties in July 2022. He stated that either he, another family member or his planning consultant have appeared before Council at previous Town meetings regarding concerns about the proposed Lakeview Homes development. Mr. Lysyk stated that he was not opposed to development, but that he was opposed to development that adversely impacts his property. He referenced an email that he sent to Members of Council in November 2022 which provided information about his application, and the boundary grading issues between the applicant and his property. Mr. Lysyk advised that he was not in support of the Staff recommendation contained within Report PDP 01-23. He stated that approval of the proposal as presented at this meeting would adversely impact the welfare of the present and future land use of his family's property. Mr. Lysyk referenced correspondence submitted to the Town dated November 22, 2022. He advised that Lakeview Homes and the Lysyk family have not come to a mutually agreed upon road centre line and boundary grade along the future north Brooklin east/west collector road that spans between the two properties. He stated that the applicant's proposal was to fill over 5 metres or 16.5 feet higher than the existing ground elevation at the shared property line. Mr. Lysyk advised that he believed that the proposed Lakeview Homes grading plan creates construction challenges on his property and would result in future maintenance

costs to the Town and homeowners which could and should be avoided if possible. Mr. Lysyk further advised that in November 2022 a virtual meeting took place between Town Staff, the applicants consulting team and his consulting team, noting that his correspondence to Council included a detailed description of the meeting. He stated that the Commissioner of Planning and Development requested that both parties reinstate conversations to work together to come to a mutually agreed solution to avoid delays or appeals on both applications, and offered that Town Staff would be available, if needed, to mediate a solution. Mr. Lysyk further stated that Town Staff agreed to allow exemptions to the Town's design standards to assist in resolving the matter. He advised that following the November 2022 meeting he had spoken with the applicant, noting that they agreed to allow both engineers to meet to find a resolution. Mr. Lysyk stated that the meeting was not scheduled to take place until Friday, January 27, 2023. He indicated that until this meeting occurs, the approval of the Draft Plan of Subdivision was premature. Mr. Lysyk requested that the Committee consider receiving Report PDP 01-23, that Council direct the applicant to work with the adjacent landowner to prepare plans illustrating the overall grading and drainage of all lands within the Brooklin 2A Sub-area Study Boundary that were mutually acceptable to both parties, that the plans illustrate how the subject development would be compatible and would not cause undue hardship for the grading of the adjacent properties and adjacent Draft Plans of Subdivision, and that upon completion of the plans, a Staff report be presented to Council for the approval of the development.

A question and answer period ensued between Members of Committee, Mr. Lysyk, and Mr. Ormonde regarding:

- the rationale for the request to delay approval of the Draft Plan of Subdivision considering that Staff were satisfied with the proposed grading;
- whether the meeting scheduled on January 27, 2023 would result in a resolution;
- the status of Mr. Lysyk's Draft Plan of Subdivision application submission and the timeline for its approval;

- the difference in the grading/elevation at the shared property line between the two properties;
- clarification on the minor adjustments that Mr. Lysyk was seeking which could occur through the detail design phase:
- whether Mr. Lysyk had reviewed the Draft Plan Approval conditions; and,
- clarification on the future maintenance costs to the Town.

5.2.5 Lorelei Jones and Alan Zhu representing Hwy6773 Inc. (Virtual Attendance)

Re: Zoning By-law Amendment Application, Hwy6773 Inc, Woodrow Court (Part 3 Plan 40R-30467), File Number: DEV-25-21 (Z-15-21)

Refer to Item 5.4.2, PDP 02-23

Lorelei Jones and Alan Zhu, representing Hwy6773 Inc., stated that they had read and were in support of the Staff recommendation and that they were available to answer questions.

5.3 Correspondence

5.3.1 2022-679 - Correspondence received by C. Harris, Town Clerk from R. Ste-Croix , General Manager & Chief Operating Officer, Abilities Centre, dated December 14, regarding a Request to Rename Gordon Street north of Victoria Street to Jim Flaherty Street

A brief discussion ensued between Members of Committee regarding:

- the appropriateness of the timing of the request;
- the creation, evolution, and uniqueness of the Abilities Centre; and,
- renaming the street being an appropriate tribute to an exceptional politician.

Recommendation:

Moved by Mayor Roy

That Correspondence # 2022-679 received by C. Harris, Town Clerk from R. Ste-Croix, General Manager and Chief Operating Officer, Abilities Centre, dated December 14, 2022 regarding a request to rename Gordon Street north of Victoria Street to Jim Flaherty Street be referred to the Council meeting on January 30, 2023 for Staff to prepare a memorandum to Council to include a recommendation and outline of the process to rename the street.

Carried

It was the consensus of the Committee to hear Item 5.2.2, Delegation by Matthew Cory and Frank Marchio representing Lakeview Homes, at this time.

5.4 Staff Reports

5.4.1 PDP 01-23, Planning and Development (Planning Services) Department Report

Re: Draft Plan of Subdivision and Zoning By-law Amendment Applications, 2068681 Ontario Inc. (Lakeview Homes Inc.), Northeast Corner of Ashburn Road and Columbus Road West, File Numbers: DEV-27-20 (SW-2020-06, Z-14-20)

A detailed question and answer period ensued between Members of Committee and Staff regarding:

- ensuring protection of the school site for the construction of the elementary school in terms of the size of the site required by the Durham District School Board;
- details about the consultation/dialogue between the proponent and the Lysyk family with respect to the grading issues, and whether minor changes could take place following the approval of the Draft Plan of Subdivision;
- whether there was an opportunity to resolve the boundary grading issues at the meeting taking place on January 27, 2023, and the implications of delaying approval of the Staff recommendation until after the meeting on January 27, 2023;
- whether the conditions outlined within the Staff report specifically related to grading were sufficient for approval at Committee;

- whether adjustments to the grading at the shared property line would normally take place through detail design, and whether minor revisions/adjustments that meet Town Standards following approval of the Draft Plan of Subdivision could take place by Staff through a red line revision;
- whether there were limits established within the Environmental Assessment with respect to grading and roads;
- alternative strategies for commemoration of the heritage building;
- the contamination of the soil due to the above-ground diesel and heating oil storage tanks on the site; and,
- whether there were any concerns about the proposed costs for additional maintenance in the future.

A question and answer period ensued between Members of Committee, Mr. Cory and Mr. Marchio regarding:

- the willingness of the proponent to remove/destroy the burdock, and to work with the Lysyk family to relocate the dirt to fill sites;
- the number of cubic metres of dirt that would be removed and whether it would be enough to match the existing grading at the shared property line;
- the status of resolving the matter of the shared boundary grading; and,
- the concerns about the proposed future road to be constructed through the property at 7183 Ashburn Road.

Recommendation:

Moved by Councillor Mulcahy

1. That Council approve the Draft Plan of Subdivision (File No. SW-2020-06), subject to the comments included in Report PDP 01-23 and the Conditions of Draft Approval included in Attachment #10;

2. That Staff be authorized to prepare a Subdivision Agreement;
3. That the Region of Durham Commissioner of Planning and Economic Development be advised of Council's decision;
4. That Williams and Stewart Associates Ltd. be appointed as the Control Architect for the Draft Plan of Subdivision;
5. That the Clerk forward a Notice to those parties and agencies that requested to be notified of Council's decision;
6. That Council approve an amendment to Zoning By-law # 1784 (File Z-14-20), as outlined in Planning Report PDP 01-23;
7. That a by-law to amend Zoning By-law # 1784 be brought forward for consideration by Council;
8. That Council authorize the Clerk to issue a notice of intention to repeal By-law # 1998-86 under the Ontario Heritage Act, Section 32(2); and,
9. That the request to repeal the designation By-law # 1998-86 per Section 32(1) of the Ontario Heritage Act, be considered by Council after the 30-day objection period passes.

Carried

5.4.2 PDP 02-23, Planning and Development (Planning Services)
Department Report

Re: Zoning By-law Amendment Application, Hwy6773 Inc,
Woodrow Court (Part 3 Plan 40R-30467), File Number: DEV-25-21
(Z-15-21)

A brief question and answer period ensued between Members of Committee and Staff regarding whether there was a limit on the number of storage warehouses in Whitby.

Recommendation:

Moved by Councillor Shahid

1. That Council approve an amendment to Zoning By-law # 1784, (File No. Z-15-21), as outlined in Planning Report PDP 02-23; and
2. That a by-law to amend Zoning By-law # 1784 be brought forward for consideration by Council.

Carried

5.5 New and Unfinished Business - Planning and Development

There was no new and unfinished business.

6. Closed Session - Items for Consideration

In accordance with Procedural By-law # 7462-18, Closed Meeting Policy G 040, and the Municipal Act, 2001, Section 239(2)(b) personal matters about an identifiable individual, including municipal or local board employees, (e) litigation or potential litigation, including matters before administrative tribunals, affecting the municipality or local board, and (f) advice that is subject to solicitor-client privilege, including communications necessary for that purpose, parts of this meeting may be closed to the public.

This portion of the agenda is closed to the public. [Refer to the Closed Agenda - Town Clerk has control and custody.]

Recommendation:

Moved by Councillor Shahid

That Committee move in-camera in accordance with Procedure By-law # 7462-18, Closed Meeting Policy G 040, and the Municipal Act, 2001, Section 239 (2)(b) personal matters about an identifiable individual, including municipal or local board employees, (e) litigation or potential litigation, including matters before administrative tribunals, affecting the municipality or local board, and (f) advice that is subject to solicitor-client privilege, including communications necessary for that purpose.

Carried

This portion of the meeting was closed to the public. [Refer to the Closed Minutes - Town Clerk has control and custody.]

6.1 Board and Committee Appointment

Re: Durham Transit Advisory Committee

Having declared a conflict of interest, Councillor Lundquist left the meeting room during the discussion related to Item 6.1, Appointment to the Durham Transit Advisory Committee.

6.2 Board and Committee Appointment

Re: Durham Environment and Climate Advisory Committee

6.3 LS 02-23, Confidential Legal and Enforcement Services Department and Planning and Development (Planning Services) Department Joint Report

Re: Request for Direction – OLT Appeal

7. Rising and Reporting

Motion to Rise

Recommendation:

Moved by Councillor Bozinovski

That Committee rise from the closed portion of the meeting.

Carried

7.1 Reporting Out

Chair Lee advised that during the closed portion of the meeting, Council discussed matters related to personal matters about identifiable individuals for the purpose of considering recommendations for appointment to Regional committees and provided direction to Staff regarding a litigation matter after receiving advice subject to solicitor-client privilege.

7.1.1 Appointment to the Durham Transit Advisory Committee

Having declared a conflict of interest, Councillor Lundquist left the meeting room during the voting related to the Appointment to the Durham Transit Advisory Committee.

Recommendation:

Moved by Councillor Shahid

That Council recommend the following individual to the Durham Transit Advisory Committee:

1. Tim Ralph

Carried

7.1.2 Appointment to the Durham Environment and Climate Advisory Committee

Recommendation:

Moved by Councillor Shahid

That Council recommend the following individual to the Durham Environment Climate Advisory Committee:

1. Bryan Widner

Carried

8. Adjournment

Motion to adjourn

Recommendation:

Moved by Councillor Yamada

That the meeting adjourn.

Carried

The meeting adjourned at 8:51 p.m.